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असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उपखण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF FINANCE

(Department of Revenue and Insurance)

NOTIFICATION

INCOME-TAX

New Delhi, the 20th December 1968

G.S.R. 2203.—Whereas the annexed Agreement between the Government of India and the Government of Socialist Republic of Romania for the avoidance of double taxation of income of enterprises operating aircraft and ships in international traffic has been approved in accordance with the laws in force in each of the two Contracting States and the diplomatic notes to this effect have been exchanged, as required by paragraph (1) of Article VIII of the said Agreement:

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961) and section 24A of the Companies (Profits) Surtax Act, 1964 (7 of 1964), the Central Government hereby directs that all the provisions of the said Agreement shall be given effect to in the Union of India.

ANNEXURE

AGREEMENT BETWEEN THE GOVERNMENT OF INDIA AND THE GOVERNMENT OF SOCIALIST REPUBLIC OF ROMANIA FOR THE AVOIDANCE OF DOUBLE TAXATION OF INCOME OF ENTERPRISES OPERATING AIRCRAFT AND SHIPS IN INTERNATIONAL TRAFFIC.

Whereas the Government of India and the Government of Socialist Republic of Romania desire to conclude an Agreement for the avoidance of double taxation of income of enterprises opearting aircraft and ships in international traffic;

Now, therefore, the said two Governments do hereby agree as follows:

ARTICLE I

(1) The taxes to which this Agreement shall apply are·

(a) in the case of India:

(i) the income-tax including any surcharge on income-tax imposed under the Income-tax Act, 1961 (43 of 1961) as amended; and

(ii) the surtax imposed under the Companies (Profits) Surtax Act, 1964 (7 of 1964) as amended (hereinafter referred to as "Indian tax");

(b) in the case of Romania:

the income-tax imposed under the Income-tax Decree, 1954 (153 of April 28, 1954) as amended (hereinafter referred to as "Romanian Tax").

(2) This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of the signature of this Agreemnt in addition to, or in place of, the existing taxes.

ARTICLE II

(1) In this Agreement, unless the context otherwise requires:

(a) the term "India" shall have the meaning assigned to it in Article 1 of the Constitution of India;

(b) the term "Romania" shall have the meaning assigned to it in the Constitution of the Socialist Republic of Romania;

(c) the terms "a Contracting State" and the "other Contracting State" mean India or Romania, as the context requires;

(d) the term "tax" means "Indian tax" or "Romanian tax", as the context requires;

(e) the terms "Indian enterprise" and "Romanian enterprises" mean, respectively, an industrial or commercial enterprise or undertaking carried on by a resident of India, and an industrial or commercial enterprise or undertaking carried on by a resident of Romania, and the terms "enterprise of one of the Contracting States" and "enterprise of the other Contracting State" mean an Indian enterprise or a Romanian enterprise, as the context requires;

(f) the terms "resident of India" and "resident of Romania", mean, respectively, a person who is resident in India for the purposes of Indian tax and not resident in Romania for the purposes of Romanian tax, and a person who is resident in Romania for the purposes of Romanian tax and not resident in India for the purposes of Indian tax;

(g) the term "person" includes individuals, companies, societies and all other entities which are treated as taxable units under the tax laws in force in either Contracting State;

(h) the term "competent authority" means in the case of India, the Central Government in the Ministry of Finance (Department of Revenue and Insurance); and in the case of the Socialist Republic of Romania, the Ministry of Finance.

(2) In the application of the provisions of this Agreement by one of the Contracting States, any terms used but not defined herein shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that State relating to the taxes to which this Agreement applies.

ARTICLE III

(1) Income derived from the operation of aircraft in international traffic by an enterprise of one of the Contracting States shall be exempt from tax in the other Contracting State.

(2) Paragraph (1) shall likewise apply in respect of participations in pools of any kind by enterprises engaged in air transport.

ARTICLE IV

(1) Income derived by a resident of Romania through shipping operations carried on in India may be taxed in Romania, as well as in India; but the tax so charged in India shall be reduced by an amount equal to fifty per cent. thereof, and the reduced amount of Indian tax payable on the profits shall be allowed as a credit against Romanian tax charged in respect of such income. The credit aforesaid shall not exceed the Romanian tax charged in respect of such income.

(2) Income derived by a resident of India through shipping operations carried on in Romania may be taxed in India as well as in Romania but the tax so charged in Romania shall be reduced by an amount equal to fifty per cent. thereof and the reduced amount of Romanian tax payable shall be allowed as a credit against Indian tax charged in respect of such income. However, where such resident is a company by which surtax is payable in India, the credit aforesaid shall be allowed, in the first instance, against the income-tax payable by the company in India and, as to the balance, if any, against the surtax payable by it in India. The credit aforesaid shall not exceed the Indian tax charged in respect of such income.

(3) In the determination of income arising in a Contracting State to an enterprise of the other Contracting State from shipping operations (that is to say, carriage of passengers, livestock, mail or goods from any port or ports in the first mentioned Contracting State), there shall be allowed as deductions depreciation in respect of the ship or ships and all operating expenses, wherever incurred and also executive and general administrative expenses so incurred, in so far as these are reasonably attributable to the shipping operationns carried on in the first mentioned Contracting State. However, the amount of the deductions to be so allowed shall, in no case, be less than five-sixths of the gross earnings of the ship from the carriage of passengers, livestock, mail or goods from any port or ports in the Contracting State.

(4) Paragraphs (1) and (2) shall not apply to profits arising as a result of coastal traffic.

ARTICLE V

The laws in force in either of the Contracting States will continue to govern the assessment and taxation of income in the Contracting States except where express provision to the contrary is made in this Agreement.

ARTICLE VI

(1) Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Agreement.

(3) The competent authorities of the Contracting States shall endeavour to resolve, by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through representatives of the competent authorities of the Contracting States.

ARTICLE VII

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Agreement and of the domestic laws of the Contracting States concerning taxes covered by this Agreement in so far as the taxation thereunder is in accordance with this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment, including judicial determination, or collection of the taxes which are the subject of this Agreement.

(2) In no case shall the provisions of paragraph (1) be construed so as to impose on one of the Contracting States the obligation:

(a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;

(b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (order public).

ARTICLE VIII

(1) The present Agreement shall be approved in accordance with the laws in force in each of the two Contracting States. It shall enter into force on the date of exchange of diplomatic notes certifying that the proper procedure was fulfilled in each State. The exchange of notes shall take place at New Delhi.

(2) The present Agreement shall thereupon be applicable:

(a) in India, in respect of income arising in India on or after the 1st day of January, 1966;

(b) in Romania, in respect of income arising in Romania on or after the 1st day of January, 1966.

ARTICLE IX

This Agreement shall continue in effect indefinitely but either of the Contracting States may, on or before the 30th day of June in any calendar year after the year 1972, give notice of termination to the other Contracting State and in such event this Agreement shall cease to be effective:

(a) in India, in respect of income arising in India on or after the 1st day of January in the calendar year next following that year in which the notice is given;

(b) in Romania, in respect of income arising in Romania on or after the 1st day of January in the calendar year next following that year in which the notice is given.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed the present Agreement.

Done in duplicate at New Delhi, this 25th day of September, One Thousand nine hundred and sixty-eight in the English language.

FOR THE GOVERNMENT OF INDIA.
(Sd.) KRISHNA CHANDRA PANT.
Minister for Revenue and Expenditure.

FOR THE GOVERNMENT OF SOCIALIST REPUBLIC OF ROMANIA
(Sd.) AUREL ARDELEANU.
Ambassador Extraordinary and Plenipotentiary.

[No. 134/F. No. 11(16)/67-TPL.]
K. S. SUNDARA RAJAN, Addl. Secy.

ERRATUM

In the Gazette of India, Extraordinary, Part II, Section 3, sub-section (i) issue No. 201 of 18th October, 1968 of the Ministry of Finance (Department of Revenue and Insurance) Notification No. 186/68-F. No. 12/8/68-CX.III dated the 18th October, 1968 the following correction may be made :—

At page 567 read "GSR 1900-C" instead of "GSR 1900".

MINISTRY OF FOOD, AGRICULTURE, COMMUNITY DEVELOPMENT AND COOPERATION

ERRATUM

In the Gazette of India, Extraordinary, Part II, Section 3, sub-section (i) issue No. 200 of 17th October, 1968 of the Ministry of Food, Agriculture, Community Development and Co-operation (Department of Food), Orders Nos. 204(RAJ) (1)/1052/68-Py.II and No. 204(GEN)(1)/1053/68-Py.II dated the 17th October, 1968 the following corrections may be made respectively :—

(i) At page 565 read "GSR 1900-A" instead of "GSR 1898".

(ii) At page 566 read "GSR 1900-B" instead of "GSR 1899".

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